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09/678,616	10/04/2000	Max Harry Weil	20/168	6966

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EXAMINER

MATHEW, FENN C

ART UNIT PAPER NUMBER

3764

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Please find below and/or attached an Office communication concerning this application or proceeding.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/678,616
Filing Date: October 04, 2000
Appellant(s): WEIL ET AL.

Leon D. Rosen
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed May 27, 2004.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

Appellant's brief includes a statement that claims 15 and 16 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of Record*

4,664,098	WOUDENBERG et al.	05-1987
3,978,854	MILLS, Jr.	09-1976
6,174,295	CANTRELL	01-2001

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Woudenberg in view of Barkalow and Mills. This rejection is set forth in a prior Office Action, mailed on 12/19/2003.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Waide in view of Cantrell. This rejection is set forth in a prior Office Action, mailed on 12/19/2003.

(11) Response to Argument

With respect to claim 15, Applicant has focused arguments towards the feature of 'a plurality of telescoping piston parts'. Applicant's own description of the telescoping parts of Mills refutes Applicant's arguments. One cannot strike the relevance of the word 'telescoping' in the Mills specification, as that is the very feature Applicant is trying to claim. Examiner agrees that Mills discloses a spring, but the claim language is broad such that Mills covers the requirement that the piston parts are exposed to a pressurized fluid (air). Woudenberg and Mills suggest that the inside diameter which is at least half the diameter of the cylinder (as seen in figures). Applicant has not specified a large force in the claims, and furthermore has not given any specific ranges. Although

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cited in the specification, Applicant is reminded limitations in the specification are not read into the claims.

With respect to claim 16, on page 5 of the Appeal Brief, Applicant has argued that the Waide and Cantrell references fail to teach a stationary portion as disclosed by the Applicant. Examiner reminds the Applicant that limitations from the specification are not read into claims. In the instant case, the claim makes no mention of a stationary portion, thus as broadly claimed by the Applicant, Waide and Cantrell meet the claimed limitations. Furthermore, as broadly claimed, Examiner points out that Cantrell has curved edges at each of the four corners of the 'saucer-shaped stabilizer'.

For the above reasons, it is believed that the rejections should be sustained.


Respectfully submitted,


Fenn C. Mathew

fcm
September 1, 2004

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